IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 2184 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MITESH JAYPRAKASH THAKKAR & 2 - Applicant(s)
Versus
GAJJAR SHIVRAMBHAI DEVRAMBHAI & 1 - Respondent(s)

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Appearance :
MR AMRISH K PANDYA for Applicant(s) : 1 - 3.MR PRANAV D MODI for Applicant(s) : 1,
MR MA BUKHARI for Respondent(s) : 1,
MR MR MENGDEY APP for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 23/10/2007

ORAL JUDGMENT

1. In the present application, the applicants, original accused have prayed for quashing of criminal complaint bearing I C.R. No.25 of 2007 filed before Radhanpur Police Station by respondent No.1 on 3.2.2007.

2. In the complaint, the complainant has stated that his daughter Manisha had left home for going to school. At that time, his sister-in-law was passing who saw that Manisha was forcibly made to sit in a jeep by the accused No.1 and 2 i.e. applicants No.1 and 2 herein. Accused No.3 was at that time shouting to put her in the jeep. They thereafter sped away in the jeep with the girl. The complainant when told about the incident by his sister-in-law, inquired at various places about the whereabouts of his daughter, but could not find her. He therefore, lodged the complaint before the police on 3.2.2007 at about 10:00 o'clock at night. Significantly as per the complaint, the daughter of the complainant was kidnapped on 1.2.2007 at about 10:30 in the morning. The police, therefore, recorded the complaint for the offence punishable under Sections 366, 506 (1) read with Section 114 of Indian Penal Code.

3. The case of the applicants herein is that no such incident as alleged in the complaint had ever taken place and in fact applicant No.1 and Manisha were in love with each other. Since her parents were not agreeable to their marriage, they got married on 1.2.2007 without the

blessing of the parents of the girl. It is stated that the complaint is malafide complaint and same should therefore, be quashed.

4. Learned advocate Shri Bukhari on behalf of respondent No.1 opposed the application and submitted that the investigation should be allowed to be completed and this Court in face of the allegation made in the complaint should not interfere at this stage.

5. Learned A.P.P. Mr. Mengdey appears for the State and made his submissions.

6. Having heard the learned advocate appearing for the parties, I find that it is not disputed that the girl Manisha was over 18 years of age on 1.2.2007. The marriage certificate between applicant No.1 and Manisha is also produced. The affidavit of Manisha declaring that she had left her house voluntarily and got married to applicant No.1 out of her free will is also produced. The applicants have also produced the proof of age of the girl. The applicant No.1 and Manisha are also present before this Court. It is stated that she is happy with applicant No.1 and Manisha was never kidnapped. It is in fact stated that she is pregnant since six months.

7. Considering the above aspect of the matter and the material on

record, I have no hesitation in coming to the conclusion that the criminal complaint is totally false and frivolous. As noted, for the alleged incident of kidnapping of the girl, to which her aunt was an eye-witness, no complaint was lodged for more than 2 days. Even otherwise the applicant as well as girl have clearly stated that there was no force, or kidnapping. It is thus, a clear case where the adult girl wanted to get married to a person of her choice, which was being opposed by her parents. There is no iota of material to suggest that the girl was forcibly taken away by the applicant. In fact the happily married couple stated before the Court that now they have cordial relation with the parents of the girl. Be that as it may, I do not find that any useful purpose would be served in permitting further investigation into the complaint lodged by respondent No.1 herein.

8. Considering all these aspects, it is a fit case, where power under Section 482 of Criminal Procedure Code should be exercised. Consequently the complaint bearing I CR No.25 of 2007 dated 3.2.2007 is hereby quashed. Rule is made absolute. Direct service is permitted.

(AKIL KURESHI, J.)

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